

PERFORMANCE TECHNOLOGIES INC \DE\
Form DEF 14A
April 27, 2007
UNITED STATES

SECURITIES AND EXCHANGE COMMISSION

Washington, DC 20549

SCHEDULE 14A

(Rule 14a)

INFORMATION REQUIRED IN PROXY STATEMENT

SCHEDULE 14A INFORMATION

PROXY STATEMENT PURSUANT TO SECTION 14(a) OF THE SECURITIES

EXCHANGE ACT OF 1934

Filed by the Registrant X

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Check the appropriate box:

- [] Preliminary Proxy Statement
- [] Confidential, for Use of the Commission Only (as permitted by Rule 14a-6(e)(2))
- x Definitive Proxy Statement
- [] Definitive Additional Materials
- [] Soliciting Material Pursuant to Rule 14a-12

PERFORMANCE TECHNOLOGIES, INCORPORATED

(Name of Registrant as Specified in Its Charter)

N/A

(Name of Person(s) Filing Proxy Statement)

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PERFORMANCE TECHNOLOGIES, INCORPORATED

NOTICE OF ANNUAL MEETING OF STOCKHOLDERS

To Be Held May 24, 2007

The Annual Meeting of Stockholders of PERFORMANCE TECHNOLOGIES, INCORPORATED will be held at our headquarters located at 205 Indigo Creek Drive, Rochester, New York 14626, on Thursday, May 24, 2007 at 10:00 a.m., New York time, for the following purposes, which are more fully described in the accompanying Proxy Statement:

1. To elect two nominees to our Board of Directors for a three-year term.
2. To consider and act upon a proposal to ratify the appointment of PricewaterhouseCoopers LLP as our independent registered public accounting firm for the fiscal year ending December 31, 2007.

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3. To transact such other business as may properly come before the Annual Meeting or any adjournments thereof.

Stockholders of record at the close of business on March 28, 2007 are entitled to notice of and to vote at the Annual Meeting.

Your vote is important. Whether or not you plan to attend the Annual Meeting, please promptly vote by the Internet, by telephone or by completing and returning the enclosed proxy card. Voting early will help avoid additional solicitation costs and will not prevent you from voting in person at the Annual Meeting if you wish to do so.

Stuart B. Meisenzahl
Secretary

205 Indigo Creek Drive

Rochester, New York 14626

April 27, 2007

PERFORMANCE TECHNOLOGIES, INCORPORATED

205 Indigo Creek Drive

Rochester, New York 14626

April 27, 2007

PROXY STATEMENT

GENERAL INFORMATION

This proxy statement is furnished to our stockholders in connection with the solicitation of proxies by the Board of Directors of PERFORMANCE TECHNOLOGIES, INCORPORATED (the Company) to be used at our Annual Meeting of Stockholders, which will be held at our headquarters, at 10:00 a.m., New York time, on Thursday, May 24, 2007 (the Meeting), and at any adjournments thereof. This proxy statement and the accompanying form of proxy are first being mailed to our stockholders on or about April 27, 2007.

The proxy, when properly executed and received by our Secretary prior to the Meeting, will be voted as therein specified unless revoked by filing a written revocation or a duly executed proxy bearing a later date with our Secretary prior to the Meeting. A stockholder of record may also revoke a proxy in person at the Meeting. Unless authority to vote for one or more of the director nominees is specifically withheld, a signed proxy will be voted FOR the election of the director nominees named herein and, unless otherwise indicated, FOR the ratification of the selection of PricewaterhouseCoopers LLP as our independent registered public accounting firm for the fiscal year ending December 31, 2007.

The cost of soliciting proxies will be borne by the Company. In addition to solicitation by use of the mails, directors, officers or our regular employees, without extra compensation, may solicit proxies personally, by telephone, e-mail or facsimile transmission. We requested persons holding stock for others in their names or in the names of nominees to forward soliciting material to the beneficial owners of such shares and will, if requested, reimburse such persons for their reasonable expenses in so doing.

VOTES REQUIRED

Stockholders may vote by mail, telephone or the Internet. For some stockholders, information regarding telephone and Internet voting is included in the proxy card instructions. Our total outstanding shares of capital stock as of March 28, 2007, the record date for the Meeting (the Record Date), consisted of 13,008,846 shares of Common Stock, par value \$.01 per share (the Common Stock). Only holders of record of Common Stock on the books of the Company at the close of business on the Record Date are entitled to notice of and to vote at the Meeting and at any adjournments thereof. Each holder of Common Stock is entitled to one vote for each share of Common Stock registered in the holder's name. A majority of the outstanding shares of Common Stock, represented in person or by proxy at the Meeting, will constitute a quorum for the transaction of all business.

Pursuant to the provisions of the Delaware General Corporation Law, directors shall be elected by a plurality of the votes cast by the holders of shares of our Common Stock present in person or represented by proxy at the Meeting and entitled to vote at the Meeting. Because directors are elected by a plurality of the votes cast, withholding authority to vote with respect to one or more nominees will have no effect on the outcome of the election, although such shares would be counted as present for purposes of determining the existence of a quorum. Provided each nominee receives at least one vote in favor of his election, abstentions will have no effect on the election of directors.

The affirmative vote of a majority of the shares present or represented by proxy at the Meeting and entitled to vote at the Meeting is required to ratify the selection of PricewaterhouseCoopers LLP as our independent registered public accounting firm for the fiscal year ending December 31, 2007. Abstentions are treated as shares present and voting, so abstaining has the same effect as a negative vote.

A broker non-vote occurs when a broker cannot vote on a matter because the broker has not received instructions from the beneficial owner and lacks discretionary voting authority with respect to that matter. We do not expect that brokers will lack discretionary authority to vote on either of the proposals to be considered at the Meeting. If, however, there are broker non-votes, we will treat them as present to determine whether we have a quorum at the Meeting; however, they will not be treated as entitled to vote on the proposals for which the broker indicates it does not have discretionary authority. This means that broker non-votes will not have any effect on whether any proposal passes.

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CORPORATE GOVERNANCE

Overview

The Company has a history of good corporate governance practices, which have aided our long-term success. The Board of Directors and management have recognized for many years the need for sound corporate governance practices in fulfilling their respective duties and responsibilities to stockholders.

The Board provides oversight with respect to our overall performance, strategic direction and key corporate policies. It approves major initiatives, advises on key financial and business objectives, and monitors progress with respect to these matters. Members of the Board are kept informed of our business by various reports and documents provided to them on a regular basis, including operating and financial reports made at Board and committee meetings by the chairman and other officers. The Board has three standing committees, the principal responsibilities of which are described below.

On an annual basis, each director and executive officer is obligated to complete a director and officer questionnaire. The questionnaire requires disclosure of any transactions with the Company in which the director or executive officer, or any member of his or her immediate family, have a direct or indirect material interest. The Board is charged with addressing any conflict of interest involving the chairman, the chief executive officer, the chief financial officer, or any elected officer of the Company.

Director Independence

Each year, the Board affirmatively determines the independence of each director and nominee for election as a director with the listing standards of the Nasdaq Stock Market.

Based on these standards, the Board affirmatively determined that each of the following non-employee directors is independent and has no relationship with the Company, except as a director and stockholder of the Company:

(1) Bernard Kozel
(2) Charles E. Maginness
(3) Stuart B. Meisenzahl

(4) E. Mark Rajkowski
(5) Robert L. Tillman

In addition, based on such standards, the Board affirmatively determined that John M. Slusser is not independent because he is the chairman, president and chief executive officer of the Company.

Nominations of Directors

Identifying Candidates

The Nominating Committee has a written charter available in the Investors section of our website at www.pt.com, which specifically sets forth the duties of the Nominating Committee. The Nominating Committee is responsible for identifying and screening potential director candidates and recommending qualified candidates to the Board for nomination. The Committee uses its network of contacts to compile a list of potential candidates, but may also engage, if it deems appropriate, a professional search firm. In addition, it considers recommendations of potential candidates from current directors, management and stockholders. The Committee does not intend to alter the manner in which it evaluates candidates, including the minimum criteria set forth herein, based on whether the candidate was recommended by a stockholder. Stockholders who wish to recommend individuals for consideration by the Nominating Committee to become nominees for election to the Board may do so by delivering a written recommendation to the attention of the Nominating Committee at the address set forth on the cover of this proxy statement. Submissions must include the full name of the proposed nominee, a description of the proposed nominee's business experience for at least the previous five years, complete biographical information, a description of the proposed nominee's qualifications as a director and a representation that the nominating stockholder is a beneficial or record owner of our Common Stock. In addition, any such submission must be accompanied by the written consent of the proposed nominee to be named as a nominee and to serve as a director if elected.

Qualifications

The Nominating Committee has not established specific minimum age, education, years of business experience or specific types of skills for potential director candidates, but, in general, expects qualified candidates will have ample experience and a proven record of business success and leadership.

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The Board has developed criteria which are designed to identify qualities and characteristics desired for the Board as a whole. The Nominating Committee believes that director candidates should have certain minimum qualifications including the ability to read and understand basic financial statements and that each should possess the highest standards of personal integrity, ethics and values.

The Nominating Committee also considers such factors as:

Relevant expertise to offer advice and guidance to management;

Sufficient time to devote to our affairs;
Excellence in his or her field;
Significant appropriate senior management and leadership experience;
A long-term and strategic perspective;
Consistent exercise of sound and objective business judgment;
Ability to advance constructive debate and a global perspective; and
Commitment to support the long-term interests of our stockholders.

Further, it is important for the Board, as a whole, to operate in an atmosphere that is collegial, professional and respectful.

Candidate Selection Process

New candidates for director nominees are reviewed in the context of the current composition of the Board, our operating requirements and the long-term interests of our stockholders. In conducting this assessment, the Nominating Committee considers diversity, maturity, skills and such other factors as it deems appropriate given our current needs and the needs of our Board to maintain a balance of knowledge, experience and capability. In the case of incumbent directors whose terms of office are set to expire, the Nominating Committee reviews such directors' overall service to us during their terms, including the number of meetings attended, level of participation, quality of performance and any other relationships and transactions that might impair such directors' independence. In the case of new director candidates, the Nominating Committee also determines whether the nominee is independent, which determination is based upon applicable listing standards of the Nasdaq Stock Market, applicable rules and regulations of the United States Securities and Exchange Commission (the "SEC"), and the advice of counsel, if necessary. The Nominating Committee conducts inquiries into the backgrounds and qualifications of possible candidates after considering the function and needs of the Board.

Regardless of how a candidate is brought to the Nominating Committee's attention, qualified candidates are asked to conduct one or more personal interviews with members of the Board. Chosen candidates are extended invitations to join the Board. If a candidate accepts, he or she is formally nominated.

Communications with the Board

Stockholders and other interested parties may communicate with one or more members of the Board or the non-management directors as a group in writing by regular mail. The following address may be used by those who wish to send such communications:

[Board of Directors] or [Name of Individual Director(s)]

Performance Technologies, Incorporated

c/o Secretary

205 Indigo Creek Drive

Rochester, NY 14626

The Board has instructed the Secretary to review all communications so received and to exercise his discretion not to forward to the Board correspondence that is inappropriate, such as business solicitations, frivolous communications and advertising, routine business matters (i.e. business inquiries, complaints, or suggestions) and personal grievances. However, any director may at any time request the Secretary to forward any and all communications received by the Secretary but not previously forwarded to the directors.

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Code of Business Conduct and Ethics

The Company's Code of Business Conduct and Ethics (the "Code") applies to all directors, officers and employees or associates of the Company and its subsidiary companies. It is intended to promote the highest standards of honesty and ethical conduct, including the ethical handling of actual or apparent conflicts of interest between personal and professional relationships; full and understandable disclosure in reports and documents filed with the SEC; compliance with applicable governmental rules and regulations; the prompt reporting of violations of the Code to an appropriate person or persons identified in the Code; and accountability for adherence to the Code.

The Board has established a means for employees, customers, suppliers, stockholders and other interested parties to submit confidential and anonymous reports of suspected or actual violations of the Company's Code of Business Conduct and Ethics.

Any employee, stockholder or other interested party can send an email to auditcommittee@pt.com to submit a report of suspected or actual violations of the Company's Code of Business Conduct and Ethics. In addition, communications can be sent to the Chairman of our Audit Committee at:

Mr. E. Mark Rajkowski

MeadWestvaco Corporation
Worldwide Headquarters
11013 W. Broad Street
Glen Allen, VA 23060

The Company's Code of Business Conduct and Ethics is available on our website at www.pt.com in the Investors section.

MEETINGS AND COMMITTEES OF THE BOARD

The Board

Each director is expected to devote sufficient time, energy and attention to ensure diligent performance of his duties and to attend all Board, committee and stockholders meetings. Our Board held twelve meetings during 2006, of which five were regularly scheduled meetings and seven were held to address particular matters. All of the directors attended at least 75 percent of the Board and committee meetings that required their attendance. As required by the listing standards of the Nasdaq Stock Market, it is the policy of the Board of Directors that the independent members of the Board meet regularly in executive (private) sessions at which only independent directors are present. The independent directors select from among their number a single director to serve as the presiding director during their executive sessions. We believe that it is important for our directors to attend the Annual Meeting of Stockholders and expect them to do so each year, barring unforeseen circumstances. All of our directors attended the 2006 Annual Meeting of Stockholders.

Committees of the Board

The Board has three standing committees to facilitate and assist the Board in the execution of its responsibilities. The committees are currently the Audit Committee, the Nominating Committee and the Compensation Committee. In accordance with the listing standards of the Nasdaq Stock Market, all the committees are comprised solely of non-employee, independent directors. The table below shows current membership for each of the Board committees:

<u>Audit Committee</u>	<u>Nominating Committee</u>	<u>Compensation Committee</u>
Stuart B. Meisenzahl	Bernard Kozel	Charles E. Maginness*
E. Mark Rajkowski*	Charles E. Maginness	Stuart B. Meisenzahl
Robert L. Tillman	Robert L. Tillman*	Robert L. Tillman

* Committee Chairperson

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In addition to the three standing committees mentioned above, the Board convened a special Transition Committee to oversee the process through which a new chief executive officer was selected. This committee was comprised of Charles E. Maginness, John M. Slusser and Robert L. Tillman. This special committee met a total of five times during 2006.

Audit Committee

The Audit Committee has three members and met nine times during 2006. The Audit Committee is responsible for reviewing our financial reporting procedures and attending to related matters, as discussed in the committee's charter. The written charter for the Audit Committee, which was adopted by the Board of Directors, more specifically sets forth the duties of the Audit Committee and is available in the Investors section of our website at www.pt.com. All of the members of the Audit Committee are financially literate and qualify as being independent under the listing standards of the Nasdaq Stock Market and applicable SEC rules. In addition, the Board has determined that Mr. Rajkowski qualifies as an audit committee financial expert under applicable SEC rules.

The Audit Committee's responsibilities, which are set forth in detail in its charter, include the following:

- Establish policies and procedures for, review and approve the appointment, compensation and termination of, the independent registered public accounting firm;
- Review with the independent registered public accounting firm and financial management of the Company and approve the scope of the audit;
- Pre-approve all audit and permissible non-audit fees;
- Hold meetings periodically with the independent registered public accounting firm, the Board and management to review and monitor the adequacy and effectiveness of reporting, internal controls and compliance with Company policies;
- Review consolidated financial statements and disclosures;
- Review with management and the registered independent public accounting firm and approve disclosure controls and procedures and accounting principles and practices; and
- Perform other functions or duties deemed appropriate by the Board.

Nominating Committee

The Nominating Committee has three members and met one time during 2006. The Committee is comprised solely of non-employee directors, all of whom the Board has determined are independent pursuant to the listing standards of the Nasdaq Stock Market. The Board has adopted a charter for the Nominating Committee, which is available in the Investors section of our website at www.pt.com.

The Nominating Committee's responsibilities, which are set forth in detail in its charter, include the following:

- Develop qualifications/criteria for selecting and evaluating director nominees and evaluating current directors;
- Consider and propose director nominees for election at the Annual Meeting of Stockholders;
- Select candidates to fill Board vacancies as they may occur;
- Make recommendations to the Board regarding Board committee memberships;
- Consider the independence of each director and nominee for director; and
- Perform other functions or duties deemed appropriate by the Board.

Compensation Committee

The Compensation Committee has three members and met six times during 2006. The Compensation Committee is comprised solely of non-employee directors, all of whom the Board has determined are independent pursuant to the listing standards of the Nasdaq Stock Market. The Board has adopted a charter for the Compensation Committee, which is available in the Investors section of our website at www.pt.com.

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The Compensation Committee's responsibilities, which are set forth in detail in its charter, include the following:

- Establish the base salary, incentive compensation and any other compensation for the Company's president and chief executive officer, review the chief executive officer's recommendations for the compensation of certain executive officers reporting to him, and set and approve such compensation;
- Monitor the Company's management incentive and stock-based compensation plans and discharge the duties imposed on the Committee by the terms of those plans; and
- Perform other functions or duties deemed appropriate by the Board.

Compensation decisions for the executive officers of the Company and the Company's directors are made by the Compensation Committee. The Committee has engaged outside executive compensation consultants to assist in evaluating the components of the executive compensation program. The competitive analysis developed by these firms has been helpful in constructing the compensation package for the chief executive officer and the other executive officers.

The Compensation Committee's chairman reports the Committee's recommendations on executive compensation to the Board. The Compensation Committee has authority under its charter to retain, approve fees for and terminate advisors and consultants as it deems necessary to assist in the fulfillment of its responsibilities.

Compensation Committee Interlocks and Insider Participation

The Compensation Committee is comprised entirely of independent directors.

SECURITY OWNERSHIP OF CERTAIN BENEFICIAL OWNERS AND MANAGEMENT

The following table, with notes thereto, sets forth as of March 28, 2007 certain information regarding the Common Stock held by (i) persons known to us who own beneficially more than 5% of our Common Stock, (ii) each of our directors, (iii) each of our Named Executive Officers

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(as defined on page 16), and (iv) all of our directors and executive officers as a group. Unless otherwise indicated immediately beneath the beneficial owner's name, the address of each beneficial owner listed in the table below is c/o Performance Technologies, Incorporated, 205 Indigo Creek Drive, Rochester, New York 14626.

<u>Name of Beneficial</u>	<u>Shares Beneficially Owned</u>	
<u>Owner</u>	<u>Amount and Nature</u>	<u>Percent of Class</u> ⁽¹⁾
	<u>of Beneficial Ownership</u>	
Royce & Associates, LLC	1,658,790 ⁽²⁾	12.8%
1414 Avenue of the Americas, New York, NY 10019 Bank of America Corporation		
100 North Tryon St., Floor 25, Bank of America	1,616,351 ⁽³⁾	12.4%
Corporate Center, Charlotte, NC 28255 Dimensional Fund Advisors LP	770,164 ⁽⁴⁾	5.9%
1299 Ocean Avenue, Santa Monica, CA 90401 Charles E. Maginness	659,642 ⁽⁵⁾	5.1%
John M. Slusser	258,261 ⁽⁶⁾	2.0%
Bernard Kozel	234,144 ⁽⁷⁾	1.8%
Dorrance W. Lamb	150,332 ⁽⁸⁾	1.1%
John J. Peters	104,302 ⁽⁹⁾	*
John J. Grana	64,300 ⁽¹⁰⁾	*
Robert L. Tillman	59,000 ⁽¹¹⁾	*
Stuart B. Meisenzahl	53,250 ⁽¹²⁾	*
E. Mark Rajkowski	40,350 ⁽¹³⁾	*

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Michael F. Tortorello	4,000 ⁽¹⁴⁾	*
Michael P. Skarzynski	-	-
All Directors and Executive Officers as a Group (13 persons)	1,845,041 ⁽¹⁵⁾	13.6%

* Less than 1%.

(1) Percentage based upon 13,008,846 shares of Common Stock outstanding as of March 28, 2007.

(2) The following information is derived from Amendment No. 3 to Schedule 13G dated January 24, 2007 filed by Royce & Associates, LLC. Royce & Associates, LLC has sole voting and dispositive power over 1,658,790 shares.

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- (3) The following information is derived from Amendment No. 7 to Schedule 13G dated February 7, 2007 filed by Bank of America Corporation. NB Holdings Corporation, Bank of America, NA, Columbia Management Group, LLC and Columbia Management Advisors, LLC are the listed subsidiaries which acquired the securities being reported by the parent holding company. Bank of America Corporation has shared dispositive power over 1,616,351 shares and shared power to vote or to direct the voting of 1,198,513 shares. NB Holdings Corporation has shared dispositive power over 1,616,351 shares, and shared voting power over 1,198,513 shares. Bank of America, NA has sole voting power over 202,658 shares, shared voting power over 995,855 shares, sole dispositive power over 231,696 shares and shared dispositive power over 1,384,655 shares. Columbia Management Group, LLC has shared dispositive power over 1,384,655 shares and shared voting power over 995,855 shares. Columbia Management Advisors, LLC has sole dispositive power over 1,384,655 shares and sole voting power over 995,855 shares.
- (4) The following information is derived from Schedule 13G dated February 1, 2007 filed by Dimensional Fund Advisors LP. Dimensional Fund Advisors LP has sole voting and dispositive power over 770,164 shares.
- (5) Includes (a) 50,000 shares of Common Stock issuable upon exercise of options currently exercisable; and (b) 93,247 shares of Common Stock owned of record by Mr. Maginness wife. Mr. Maginness disclaims beneficial ownership of the shares owned by his wife.
- (6) Includes (a) 30,000 shares of Common Stock issuable upon exercise of options currently exercisable; and (b) 7,500 shares of Common Stock owned of record by Mr. Slusser as custodian for his minor children living in his household.
- (7) Includes (a) 40,000 shares of Common Stock issuable upon exercise of options currently exercisable; and (b) 189,144 shares of Common Stock owned of record by The Kozel Holding Company, LLC, over which Mr. Kozel has voting and investment power.
- (8) Includes 88,000 shares of Common Stock issuable upon exercise of options currently exercisable. Excludes 22,000 shares of Common Stock issuable upon exercise of options not yet vested.
- (9) Includes 102,000 shares of Common Stock issuable upon exercise of options currently exercisable. Excludes 30,000 shares of Common Stock issuable upon exercise of options not yet vested.
- (10) Includes (a) 62,000 shares of Common Stock issuable upon exercise of options currently exercisable; and (b) 150 shares of Common Stock owned of record by Mr. Grana s wife as custodian for their child living in their household. Excludes 30,000 shares of Common Stock issuable upon exercise of options not yet vested.
- (11) Includes 40,000 shares of Common Stock issuable upon exercise of options currently exercisable.
- (12) Includes 50,000 shares of Common Stock issuable upon exercise of options currently exercisable.